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IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

BRENDA LEE, Individually and as Personal
Representative of the Estate of MA'ILA
KAYULI PACARRO, Deceased; and
SHAUN PACARRO,

Plaintiffs

Vs.

UNITED STATES OF AMERICA, UNITED
STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendants

COMPLAINT FOR DAMAGES

Case NO. _____ Civil

COMES NOW the plaintiffs, BRENDA LEE, Individually and as Personal
Representative of the Estate of MA'ILA KAYULI PACARRO, Deceased; & SHAUN
PACARRO, by and through counsel, Valcarce Law Office, LLC, for their cause of action
against defendant, states and alleges as follows:

BRENDA LEE, Individually and as Personal Representative of the
Estate of MA'ILA KAYULI PACARRO, Deceased;
SHAUN PACARRO,
Vs.
UNITED STATES OF AMERICA, UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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2) Defendant United States Department of Health and Human Services is an agency of the United States government and is organized and exists under the laws of the United States of America.

4) This suit is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. Sec. and this court has exclusive jurisdiction over this action pursuant to 28 U.S.C. Sec. b).

6) Defendant rendered a final decision, dated August 12, 2008, denying
Plaintiffs' administrative claim.

8) Plaintiff Brenda Lee is the named personal representative of the Estate of Kayuli Pacarro.

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1 9) While pregnant with Ma'ila Kayuli Pacarro in 2007, Plaintiff Brenda Lee
2 visited and was under the care of ANMC.

3 10) On or about March 16, 2007, Ma'ila Kayuli Pacarro died.

4 **MEDICAL NEGLIGENCE**

5
6 11) Plaintiffs reallege and incorporate herein as though they were set out in full,
7 all allegations of the preceding paragraphs.

8 12) ANMC practitioners have a duty to:

- 9 a) promptly and properly examine the patient and obtain an accurate
10 medical history and document objective and subjective findings;
11 b) and promptly and properly treat the condition.

12 13) ANMC was negligent in its acts and omissions, including but not limited to:

- 13 a) failure to timely diagnose Brenda Lee;
14 b) failure to properly treat intrahepatic cholestasis of pregnancy;
15 c) failure to reach a reasoned diagnosis;
16 d) failure to provide adequate care;
17 e) failure act with the necessary degree of urgency;
18 f) and failure to keep adequate medical records
19

20 **Loss to Estate**

21 14) Plaintiffs reallege and incorporate herein as though they were set out in full,
22 all allegations of the preceding paragraphs.

23
24 15) Plaintiff Brenda Lee brings this action for the benefit of decedent's Estate,
25 under the provisions of Alaska Statute 09.55.580. Plaintiff Brenda Lee, on behalf of the

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1 Estate of Ma'ila Kayuli Pacarro, further alleges, that as a direct and proximate result of
2 the negligence of the Defendant described above, the decedent died on March 16,
3 2007.

4 16) At the time of decedent's death, decedent had a life expectancy of
5 approximately 78.9 years, and decedent's estate has been deprived of the present
6 value of the accumulations that the decedent would have made to decedent's estate
7 had decedent lived out such life expectancy.

8 17) By reason of the injury and death of decedent, decedent's estate has
9 incurred damage and loss including, but not limited to: loss of pecuniary benefits; loss of
10 prospective inheritance; loss of contributions for support; loss of assistance and
11 services; loss of prospective training and education; and medical and funeral expenses.
12

13 **Consortium and Negligent Infliction of Emotional Distress Claims of Parents**

14 18) Plaintiffs reallege and incorporate herein as though they were set out in full,
15 all allegations of the preceding paragraphs.

16 19) As a direct and proximate result of the negligence of the Defendant
17 described above, the Parent Plaintiffs sustained negligent infliction of emotional distress
18 and loss of love, support and consortium, injury, damage and loss including, but not limited
19 to the following: economic and non economic damages, mental anguish and emotional
20 distress; medical costs and related transportation, lodging and other expenses; loss of
21 economic opportunities; loss of subsistence opportunities; loss of personal services, care
22 and affection and consortium.
23

24 **Medical Injury Claim by Brenda Lee**
25

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1 20) Plaintiffs reallege and incorporate herein as though they were set out in full,
2 all allegations of the preceding paragraphs.

3 21) As a direct and proximate result of the negligence of the Defendant
4 described above, Plaintiff Brenda Lee incurred damage and loss, including but not limited
5 to: economic and non economic damages; past and future medical expenses; permanent
6 injury or impairment; mental anguish and emotional distress; medical costs and related
7 transportation; lodging and other expenses.

8 WHEREFORE, each of the Plaintiffs pray for relief as follows:
9

- 10 1. An amount in excess of One Hundred Thousand Dollars
11 (\$100,000.00), the exact amount to be determined at trial, plus
12 prejudgment interest.
13 2. For reasonable costs and attorney fees incurred herein.
14 3. For such other and further relief as this court deems just and
15 equitable

16 DATED this 20th day of Sept 2008, at Bethel Alaska

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21 Jim Valcarce
22 Bar No. 9505011
23 VALCARCE LAW OFFICE, LLC
24 Attorney for Plaintiffs
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2 **CERTIFICATE OF SERVICE:**

3 The undersigned hereby certifies that on this 27th of Sept., 2008, a true and correct copy was served on the
4 following:

5 Attorney General Michael Mukasey
6 Office of the U.S. Attorney General
7 U.S. Department of Justice
8 Main Justice Building
9 10th & Constitution Avenue NW
10 Washington, D.C. 20530

Nelson P. Cohen, U.S. Attorney
Office of the U.S. Attorney, District of Alaska
U.S. Department of Justice
222 West 7th Avenue, #9, Room 253
Anchorage, AK 99513-7567

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